

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NEW YORK

United States Bankruptcy Court Judge Elizabeth S. Strong

Bankruptcy Trustee: Robert J. Musso

Case No. ~~1:18-41652-ESS~~ A. G.

CLERK
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF
NEW YORK

WILLIAMS, ETHEL)
 Plaintiffs,)
 V.)
)
 WELLS FARGO BANK, N.A.)
 AA PROPERTIES 501 LLC,)
 JOHN DOE, JANE DOE,)
 et al,)
 Defendants,)
 _____ /

ADVERSARY PROCEEDING
AFFIDAVIT IN SUPPORT OF
PLAINTIFF'S REQUEST FOR LEAVE TO
FILE AN AMENDED COMPLAINT

1-18-44707-ESS
 1-18-01103-ESS

I, Williams, Ethel, the living, breathing, flesh and blood woman, a non lawyer appearing in propria personum / in pro se, do hereby make the request before the Honorable Judge Elizabeth S. Strong and Trustee Robert J. Musso pursuant to Federal Rules of Civil Procedure 15(a)(2) and 19(a), Fed. R. Civ. P., Local Rule 7.1, and without any Order's Setting Discovery Procedures executed by this Court, the Plaintiffs hereby respectfully submits this Affidavit In Support of Plaintiff's request for motion granting leave to amend complaint and add parties with interest and / or knowledge of the facts.


Affidavit in Support of Plaintiff's Request For Leave To Amend Complaint

1. Plaintiff filed a voluntary petition bankruptcy 03/26/18, hereby Subject Matter Jurisdiction, Personal Matter Jurisdiction, Venue invoking "automatic stay" executed by the US Bankruptcy Court For the Eastern District of New York.
2. In regards to Case No. 7127/2018 initiated by Wells Fargo Bank, N.A. in the Supreme Court in and for the County of Queens to "settle a debt" by the Defendant's Attorney.
3. Defendant has failed to reply to Notice of Bankruptcy to this Court within the statute of limitation and is therefore subject to this Court's default actions.

SUMMARY OF ARGUMENT

4. Federal Rule of Civil Procedure 15(a) contemplates that a court will freely grant leave to file an amended complaint when the interests of justice so require. The United States District for the Eastern District of New York does not appear to have any policies permitting the amendments to a complaint. The Courts granting of motion allows the Plaintiff to describe in further detail the

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 Williams, Ethel

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genuine issues of material fact that would eliminate disputes over form that would waste this Court's time namely the violation of the bankruptcy automatic stay.

5. The Plaintiff emphasizes to this Court that the amending of its initial complaint to reflect Plaintiffs filing under 28 USC sections 157, 1334(b) and Title 15 USC 1692 whereas the matter concerning violations of the automatic stay before the Court has been brought before the Court under Title 11 USC by voluntary petition for bankruptcy in an attempt to settle a debt for payment where there is no obligation to pay and therefore a fraudulent debt.
6. The validity of the debt was dismissed in its entirety for attorney's failure to certify the accuracy of the documents filed comporting with Administrative Order 548-10 by Order filed on March 30, 2015 by Supreme Court Judge Phyllis Orlikoff Flug (see Exhibit "B") however Defendants re-filed complaints with a Judgment of Foreclosure entered by Judge Salvatore J. Modica on date September 22, 2016 (See Exhibit "C") that was not given the same level of judicial review as made by the previous judge. Judge Modica should have applied the same review to ensure that all attorney's filing on behalf of the Defendant Wells Fargo Bank, N.A. complied with Administrative Order 548-10. Judge Modica's actions, decisions and orders were prejudice.
7. The Defendants Wells Fargo Bank, N.A. and AA Properties 501 LLC through subsidiaries, attorney and / or other legal entities have violated the Plaintiff's 4th and 5th Amendment Rights secured by the United States Constitution and the Truth In Lending Act, the Fair Debt Collection Practices Act and through intentional tort by omitting portions of the Order executed by Judge Flug relating to the accuracy of the files of the Defendant Wells Fargo Bank, N.A. and have engaged in constructive fraud that deprives the Plaintiff of Rights pertaining to property.
8. There is no contractual obligation to pay between the Plaintiff and the Defendant Wells Fargo Bank, N.A. for a loan or extension of credit between the Plaintiff and Defendant.
9. The Defendant Wells Fargo Bank, N. A., is a corporation residing outside the residential / territorial jurisdiction of the Supreme Court in and for the county of Queens, who initiated a complaint released from the Foreclosure Settlement Conference Part on date July 22, 2013 before the Honorable Phyllis Orlikoff Flug for foreclosure on a mortgage which also sought monetary relief an amount greater than \$500,000 or return of property.
10. The Defendant's application for an order of reference within 90 days of the date of the Order was not filed until October 28, 2013 and was untimely filed failing to offer any explanation for the delay, more importantly, it failed to comply with Administrative Order 431-11.
11. The Defendant's attorney failed to provide a certificate of merit complying with administrative order 548-10, as amended by AO 431-11 which requires that an attorney filing for plaintiff in a residential foreclosure action certify the accuracy of the papers filed in support of the action by submitting an affirmation form from the attorney that he or she communicated with a representative personally reviewing documents and records relating to the case reviewed the summons and Complaint and all other papers filed in support of the foreclosure, and confirm the accuracy of the court filings and the notarizations contained therein.
12. Although the Defendants attorney's did file the required attorney's affirmation on May 30, 2013, the affidavit of merit in support of the motion is dated October 15, 2013 and on February 11, 2014, the honorable Judge Phyllis Orlikoff Flug of the lower court did deny the Defendant's motion in its entirety as the attorney's affirmation failed to confirm the accuracy of all court

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filings and notarizations, and specifically failed to confirm the accuracy of the affidavits submitted in support of the motion, and was deemed “premature.”

13. Plaintiff Williams, Ethel did fail to make payments for a mortgage for the duration of hospitalization of and was aware of Green, Aazim Demetrius’ attempts to pay and make modifications by telephonic requests to the undisclosed loan agreements allegedly transferred to the Defendant and was denied on four (4) occasions to the Plaintiff’s request for modifications of the alleged loan.
14. Though the Plaintiff was said to have failed to appear at the Foreclosure Settlement Conference Part, the Plaintiff did present reasonable excuse for its failure to appear as the Plaintiff was incapable of making medical decisions.
15. Plaintiff, as co-debtor, filed voluntary petition for bankruptcy 03/26/18.
16. The Defendant’s attorney’s did send communications as debt collectors and did advise the Plaintiff in all of said communications that the matter expressed to be resolved was for the purposes of settling a debt, however the initial complaint filed in the lower court was initiated as a civil matter when it is a consumer credit matter, and did also send to the Plaintiff an uncertified, unverified, unvalidated copy of the original promissory note lacking clear chain and / or transfer of title with wet ink signatures and endorsements to transfer the note from the Plaintiff’s original creditor.
17. On date November 22, 2017 referee Vasilios C. Angelos did file order to foreclose a mortgage without Defendant’s affidavit of merit at the instruction of judge Modica without documented transfer of assignment by the aforementioned judges case no. 7127/2013 and permitted the sale of the property to Defendant AA PROPERTIES 501 LLC, through foreclosure proceeding when cause was brought before the referee on date “March 24, 2015” (See Exhibit “D”).
18. Since the Plaintiff’s filing for voluntary petition for bankruptcy, the Defendants have willfully and intentionally violated this Courts automatic stay order staying all responses and / or actions in the lower courts by filing Defendant’s responses to the lower court when jurisdiction had been transferred to the US Bankruptcy Court for the Eastern District of New York by Notice of bankruptcy. (See Exhibit “A”).
19. Judge of the lower court made bias and prejudicial impartial statements by way of order to show cause denying the Plaintiff equal protection under the law that secures its right to property, and coerces the Plaintiff into an contractual obligation to pay where contractual obligation has failed to be presented.

MOTION FOR MONETARY AND COMPENSATORY RELIEF

Plaintiff seeks as relief the following:

1. That this court impose sanction for willful violations of the bankruptcy court automatic stay on Defendants Wells Fargo Bank, N. A. and AA Properties 501 LLC
2. Monetary relief the value of the alleged debt(s) times two;
3. Maximum damages under the Truth in Lending Act;
4. Maximum damages under FDCPA \$1,000.00 per violation;
5. Compensatory relief for damages under TILA, FDCPA; and
6. Any other relief this Court may find fair and equitable.

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CLERK
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

2019 FEB 12 10:11 AM
United States Bankruptcy Court Judge Elizabeth S. Strong

Bankruptcy Trustee: Robert J. Musso

Case No. 1:18-41652-ESS

WILLIAMS, ETHEL

Plaintiffs,

V.

WELLS FARGO BANK, N.A.

AA PROPERTIES 501 LLC,

JOHN DOE, JANE DOE,

et al,

Defendants,

ADVERSARY PROCEEDING

UNDER 28 USC 1452 REMOVAL OF

CLAIMS RELATED TO BANKRUPTCY

PLAINTIFF'S REQUEST FOR LEAVE TO

FILE AN AMENDED COMPLAINT

1-18-44707-ESS

1-18-01103-ESS

I, Williams, Ethel, the living, breathing, flesh and blood woman, a non lawyer appearing in propria personum / in pro se, do hereby give notice of removal of action under 28 USC 1452 and do state the following in support thereof:

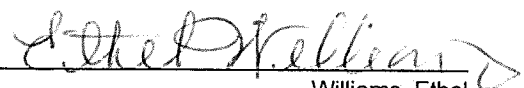
With respect to removal pursuant to 28 U.S.C. 1452, Bankruptcy Rule 9027(a)(1) provides as follows:

(I) Where filed; form and content. A notice of removal shall be filed with the clerk for the district and division within which is located the state or federal court where the civil action is pending. The notice shall be signed pursuant to Rule 9011 and contain a short and plain statement of the facts which entitle the party filing the notice to remove, contain a statement that upon removal of the claim or cause of action the proceeding is core or non-core and, if non-core, that the party filing the notice does or does not consent to entry of final orders or judgment by the bankruptcy judge, and be accompanied by a copy of all process and pleadings.

STATEMENT OF THE FACTS

1. The Petitioner / Plaintiff hereinafter, requests of the United States Bankruptcy Court For the Eastern District of New York to grant Plaintiff's request for leave to file an amended adversary proceeding complaint against Wells Fargo Bank, N.A. for violation of the bankruptcy courts automatic stay.
2. The Debtor as Plaintiff makes this request pursuant to 11 USC 301 (b), 11 USC 362 (a)(6) and Rules 15(a)(2) and 19(a), Fed. R. Civ. P.
3. This action is a matter regarding the automatic stay of the Bankruptcy Court.

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4. Defendants Wells Fargo Bank, N. A. through its attorney's have violated the automatic stay and have willfully filed motions in the Supreme Court In And For The County Of Queens on dates April 15, 2018 case no. 7127/2013.
5. Defendants AA PROPERTIES 501 LLC through its attorney have violated the automatic stay of this Bankruptcy Court and have willfully filed motions in the Landlord and Tenant Court case no. 055162/2018 (See Exhibit A).
6. Upon removal of the cause of action entered in the lower courts, the proceeding is core and that the Plaintiff upon filing of this notice does consent to entry of final orders or judgment by the bankruptcy judge.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed with the Clerk of the Court by hand delivery, respectfully submitted the ___th day of October, 2018. I also certify that the foregoing document is being served this day on the following party of record via U.S. certified mail:



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